

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FINDIGS, INC.,	X	
	:	
	:	
Plaintiff,	:	CASE NO. 1:22-cv-7404-LGS
	:	
-against-	:	CIVIL CASE MANAGEMENT
	:	PLAN AND SCHEDULING
HENSON ORSER, ET AL.,	:	ORDER
	:	
Defendants.	:	
	:	
	:	
	X	

LORNA G. SCHOFIELD, United States District Judge:

This Civil Case Management Plan is submitted by the parties in accordance with Fed. R. Civ. P. 26(f)(3).

1. All parties do not consent to conducting all further proceedings before a United States Magistrate Judge, including motions and trial. See 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences.
2. The parties have conferred pursuant to Fed. R. Civ. P. 26(f).
3. This case is governed by one of the following sets of rules, and the parties' proposed dates in this order have been adjusted accordingly.
 - a. An employment case governed by the Initial Discovery Protocols for Employment cases? <https://nysd.uscourts.gov/hon-lorna-g-schofield>.
[Yes _____ / No X _____]
 - b. A case governed by Local Civil Rule 83.10, Plan for Certain § 1983 Cases Against the City of New York? <https://nysd.uscourts.gov/rules>.
[Yes _____ / No X _____]
 - c. A patent case subject to the Local Patent Rules and the Court's Individual Rules? <https://nysd.uscourts.gov/rules> and <https://nysd.uscourts.gov/hon-lorna-gschofield>
[Yes _____ / No X _____]

- d. A wage and hour case governed by Initial Discovery Protocols for Fair Labor Standards Act? <https://nysd.uscourts.gov/hon-lorna-g-schofield>.
[Yes _____ / No X _____]

4. Alternative Dispute Resolution/Settlement

- a. Settlement discussions have not yet taken place, but the parties are considering these discussions and the form they would take.
- b. Counsel for the parties have discussed an informal exchange of information in aid of early settlement and have agreed to exchange the following: N/A.
- c. Counsel for the parties have discussed the use of the following alternate dispute resolution mechanisms for use in this case: (i) a settlement conference before a Magistrate Judge; (ii) participation in the District's Mediation Program; and (iii) retention of a private mediator. Counsel for the parties propose the following alternate dispute resolution mechanism for this case: a settlement conference before Magistrate Judge Netburn.
- d. Counsel for the parties recommend that the alternate dispute resolution mechanism designated in paragraph 4(c) be employed at the following point in the case (e.g., within the next 60 days; after the deposition of plaintiff is completed (specify date); after the close of fact discovery): within the next 60-90 days.
- e. **The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.**

5. No additional parties may be joined after January 20, 2023 without leave of Court.

6. Amended pleadings may be filed without leave of Court until January 20, 2023.

7. Initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) shall be completed no later than 14 days from the date of this Order.

8. Fact Discovery

February 24, 2023

- a. All fact discovery shall be completed no later than ~~June 16, 2023~~.
- b. Initial requests for production of documents pursuant to Fed. R. Civ. P. 34 shall be served by February 17, 2023.
- c. Responsive documents shall be produced by March 23, 2023. Do the parties anticipate e-discovery? [Yes X _____ / No _____]

The deadlines in paragraphs 8(b) through 8(f) may be modified by a written agreement between the parties, provided that all fact discovery is completed by **February 24, 2023**.

- d. Interrogatories pursuant to Fed. R. Civ. P. 33 shall be served by April 14, 2023.
- e. Depositions pursuant to Fed. R. Civ. P. 30, 31 shall be completed by May 3, 2023.
- f. Requests to admit pursuant to Fed. R. Civ. P. 36 shall be served by May 15, 2023.
- g. **Any of the deadlines in paragraphs 8(b) through 8(f) may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 8(a).**

9. Expert Discovery

- a. Anticipated types of experts if any:
Expert on the classification of certain types of real estate technology as a trade secret
- b. If you have identified types of experts in question 9(a), all expert discovery shall be completed no later than ~~July 31, 2023~~.
April 10, 2023 **March 24, 2023**
- c. If you have identified types of experts in question 9(a), by ~~April 10, 2023~~ the parties shall meet and confer on a schedule for expert disclosures, including reports, production of underlying documents and depositions, provided that (i) expert report(s) of the party with the burden of proof shall be due before those of the opposing party's expert(s); and (ii) all expert discovery shall be completed by the date set forth in paragraph 9(b).

- 10. This case is to be tried to a jury.
- 11. Counsel for the parties have conferred and their present best estimate of the length of trial is 5-7 days.
- 12. Other issues to be addressed at the Initial Pretrial Conference, including those set forth in Fed. R. Civ. P. 26(f)(3), are set forth below:
- 13. Status Letters and Conferences
December 27, 2022
 - a. By ~~March 30, 2023~~, the parties shall submit a joint status letter, as outlined in Individual Rule IV.A.2.
March 10, 2023
 - b. By ~~May 15, 2023~~, the parties shall submit a joint status letter, as outlined in Individual Rule IV.A.2 and, in the event that they have not already been referred for settlement discussions, shall also advise the Court whether or not they request a referral for settlement discussions as provided in Paragraph 4(c) above.

April 26, 2023 at 4:10 p.m.

- c. On ~~August 15, 2023 at 11:00 A.M.~~, a pre-motion conference will be held for any anticipated dispositive motions, provided:
- i. A party wishing to file a summary judgment or other dispositive motion shall file a pre-motion letter **at least two weeks before the** conference and in the form provided in the Court's Individual Rule III.A.1. Any party wishing to oppose shall file a responsive letter as provided in the same Individual Rule. The motion will be discussed at the conference. To join the conference, the parties shall call (888) 363-4749 and use Access Code 558-3333. The time of the conference is approximate, but the parties shall be ready to proceed at that time.
 - ii. **If no pre-motion letter is timely filed, this conference will be canceled and the matter placed on the Court's trial-ready calendar.** The parties will be notified of the assigned trial-ready date and the filing deadlines for pretrial submissions. The parties are warned that any settlement discussions will not stay pretrial deadlines or the trial date.

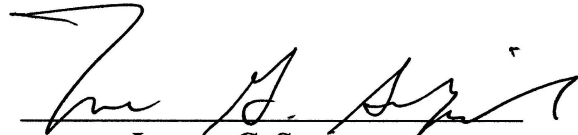
This Order may not be modified or the dates herein extended, except as provided in paragraph 8(g) or by further Order of this Court for good cause shown. Any application to modify or extend the dates herein, except as provided in paragraph 8(g), shall be made in a written application in accordance with the Court's Individual Rules and shall be made no less than 2 business days prior to the expiration of the date sought to be extended.

Notwithstanding any other rules governing discovery or other deadlines, the parties shall follow the deadlines set forth herein unless expressly ordered otherwise by the Court.

The Clerk of Court is directed to enter the dates under paragraphs 5, 6, 8(a), 9(b)-(c) and 13(a)-(c) into the Court's calendar.

SO ORDERED.

Dated: October 27, 2022
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Counsel for the Parties:

CROWELL & MORING LLP

By: /s/ Joachim B. Steinberg
Joachim B. Steinberg

**LEWIS BRISBOIS BISGAARD &
SMITH LLP**

By: /s/ Adam E. Collyer

Gabriel M. Ramsey (*pro hac vice* pending)
Crowell & Moring LLP
3 Embarcadero Center, 26th Floor
San Francisco, CA 94111
Tel: (415) 986-2800
Fax: (415) 986-2827
jsteinberg@crowell.com
gramsey@crowell.com

*Attorneys for Defendants
Henson Orser and Two Dots, Inc.*

Adam E. Collyer
Brian Pete
Lewis Brisbois Bisgaard & Smith LLP
77 Water Street, 21st Floor
New York, NY 10005
Tel: (646) 783-1723
Fax: (212) 232-1399
Adam.Collyer@lewisbrisbois.com
Brian.Pete@lewisbrisbois.com

Attorneys for Plaintiff Findigs, Inc.